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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, AFL-CIO;
AMERICAN FEDERATION OF STATE
COUNTY AND MUNICIPAL EMPLOYEES,
AFL-CIO, et al.,

Plaintiffs,

v.

UNITED STATES OFFICE OF PERSONNEL
MANAGEMENT, et al.,

Defendants.

Case No. 3:25-cv-01780-WHA

**SUPPLEMENTAL DECLARATION OF
KORY BLAKE**

SUPPLEMENTAL DECLARATION OF KORY BLAKE

I, Kory Blake, declare as follows:

1. I am over 18 years of age and competent to give this declaration. This declaration is based on my personal knowledge, information, and belief.

2. I am the Area Field Services Director (“AFSD”) for the Eastern Region in the Organizing and Field Services department of the American Federation of State, County and Municipal Employees, AFL-CIO (“AFSCME”). This declaration is provided as a supplement to my declarations of February 22 and 26, 2025 (Dkts. 18-6 and 39-6), March 11, 2025 (Dkt. 100-1), and April 11, 2025 (Dkt. 199-3).

3. On April 18, 2025, Judge William Alsup ordered Defendant agencies “who used the OPM template termination notice” to provide affected probationary employees “a written statement, directed to the employee individually, stating that their termination was not ‘performance’ or fitness based but was made as part of a government-wide mass termination.” Dkt. 202 at 26.

4. On May 7, 2025, AFSCME Local 1653 members who are probationary employees working at the Federal Aviation Administration (FAA) received notices from the Department of Transportation (DOT) by email concerning Judge Alsup’s April 18 order. A true and correct copy of one of these notices is attached hereto as Exhibit 1. The notice states that “[o]n April 18, 2025, U.S. District Judge William Alsup of the Northern District of California required the U.S. Department of Transportation (DOT) to provide you with “a written statement, directed to [you] individually, stating that [your] termination was not ‘performance’ or fitness based but was made as part of a government-wide mass termination.” The notice further states that “DOT is appealing the Court’s April 18, 2025, Order and *believes it to be both legally and factually erroneous.*” (emphasis added).

5. Numerous AFSCME Local 1653 members who received these notices have raised concerns about the government’s compliance with the Court’s April 18 Order. The Union’s affected members care deeply about being able to demonstrate definitively that they were not in fact fired for

Supplemental Declaration of Kory Blake, No. 3:25-cv-01780-WHA

1 performance reasons. But by insisting in the notices that the Court's April 18 ruling was "legally and
2 factually erroneous," DOT appears to be taking the position that the recipients of these notices actually
3 were terminated for performance reasons. The caveat undermines the very purpose of the Court's
4 injunction, and may make it more difficult for the Union's members to obtain future employment.

5 I declare under penalty of perjury under the laws of the United States that the foregoing is true
6 and correct.
7

8 Executed this 4th day of June 2025 in Washington, DC.

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10 _____
11 Kory Blake
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Exhibit 1

From: "DOT-FAA-Official-Notification (FAA)" <DOT-FAA-Official-Notification@faa.gov>

Date: May 1, 2025 at 5:31:40 PM CDT

To: "[REDACTED]" <[REDACTED]@faa.gov>,
[REDACTED]

Cc: "[REDACTED]" <[REDACTED]@faa.gov>,
"[REDACTED]" <[REDACTED]@faa.gov>,
"[REDACTED]" <[REDACTED]@faa.gov>

Subject: DOJ Notice – Probationary Employees

May 1, 2025

MEMORANDUM FOR HEATHER R WHITE, MANAGEMENT
ANALYST, DOT/FAA

SUBJECT: DOJ Notice – Probationary Employees

This memorandum is being provided to you in accordance with the preliminary injunction issued by the Northern District of California in American Federation of Government Employees v. U.S. Office of Personnel Management, No. 3:25-cv-1780 WHA (N.D. Cal.).

On April 18, 2025, U.S. District Judge William Alsup of the Northern District of California required the U.S. Department of Transportation (DOT) to provide you with “a written statement, directed to [you] individually, stating that [your] termination was not ‘performance’ or fitness based but was made as part of a government-wide mass termination.” Judge Alsup’s decision is attached.

DOT is appealing the Court’s April 18, 2025, Order and believes it to be both legally and factually erroneous. Nonetheless, DOT must comply with the Order unless and until it is stayed or reversed by an appellate court.

In accordance with the Court’s April 18, 2025, Order, DOT hereby, informs you, as required by the Court, that your earlier termination “was not ‘performance’ or fitness based but was made as part of a government-wide mass termination.”

This memorandum is to be (i) implemented consistent with applicable law, and (ii) it shall not serve as any basis for liability against DOT or any other agency or instrumentality of the Federal government, before any court or in any administrative proceeding. DOT reserves all rights.

Questions regarding this matter may be directed to [REDACTED]

██████ via phone at 405-954-4146 or via email at
██████@[faa.gov](mailto:██████@faa.gov).

<Attachment AFGE v. OPM (N.D. Cal. 2025).pdf>